

**REMARKS**

This Amendment has been prepared in response to the Office action of 25 January 2005 (Paper No. 20050114).

**Status of the Claims**

Claims 1 through 28 are pending in the application. Claims 2, 6, 16, 19, 20, 22-24, and 26-28 are amended.

**Objection to the Drawings**

The drawings are objected to as failing to include all of the features contained in the disclosure. Specifically, the Examiner requires lens 102 appearing at line 17 on page 7 be included in the drawings. A substitute sheet of drawings containing Figure 5A includes identification of lens 102, in compliance with the Examiner's request.

**Objection to the Specification**

The specification is objected to for the informalities specified by the Examiner in the action. The specification is amended to incorporate each instance kindly suggested by the Examiner.

**Objection to the Claims**

Claims 2, 20, 22 and 26 are objected to for the informalities pointed out by the

Examiner. Claims 2, 20, 22 and 26 are amended to address informalities kindly noted by the Examiner.

**Claims Rejection Under 35 U.S.C. §112**

Claims 16, 19 and 20 are rejected under the second paragraph of 35 U.S.C. §112 as being possibly indefinite based upon questions raised by the Examiner about antecedent bases. Although Applicant disagrees with any suggestion that these claims made possibly be indefinite, each claim is amended to expressly provide antecedent bases. Consequently, the bases for this rejection has been rendered moot.

**Claim Rejection Under 35 U.S.C. §102(b)**

**Claims 1 through 6 and 17**

Claims 1 through 6 and 17 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,918,775 to Leu. Applicant traverses this rejection for the following reasons.

Leu '775 describes a portable safety device for at door use with first and second shells 1, 2 using a T-shaped block 4 to engage slots 57 to form a compact sealing.<sup>1</sup> A switch 14 electrically communicates with first transverse conductor plate 15 and second conductor plate 17 in order to control communication between the two plates 15, 17.<sup>2</sup>

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<sup>1</sup> Column 2, lines 36, 37

<sup>2</sup> Column 2, lines 1-4

In support of this rejection, the Examiner asserted that Leu '775 teaches "a housing encasing the tool while the tool is in and inoperative positions" and "illuminating component [Figure 2: (34)] mounted on the housing to illuminate the tool while the tool is in the deployed position"; "a mode switch component [Figure 2: (14)]; and "a blade switch component [Figure 2: (6, 61)] cooperating with the mode switch, housing, and illuminating components to operate the illuminating component. This is a fanciful and technically inaccurate representation of the teachings of Leu '775.

**First**, Leu '775 is utterly devoid of any "mode" switch, and instead discloses a single switch that provides either and electrically open or electrically closed state. Leu neither uses nor suggests the adjective "mode." To paraphrase the Board of Patent Appeals and Interferences, how could Leu '775 be read to teach a "mode" switch when Leu '775 does not even use this adjective?

**Second**, Leu '775 fails to make *prima facie* showing of anticipation. Claim 1 defines *interareas*, a "blades which component cooperating with that mode switch component, said housing component, and said illuminating component to operate said illuminating component. In contradiction, axle 6<sup>3</sup> and knife 61 have no disclosed relation with switch 14 of Lue '775, which operates independently of knife 61 and axle 6. In short, Lue's '775 teaches that "axle 6 is provided that the lower lateral's side of the front portion of the cylindrical structure 3. Several tools, such as knife 61, magnifying

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<sup>3</sup> Column 2, line 42, Leu '775

glass 62 and screw drivers 63, 64, 65 bottle opener 66 are pivotally connected with axle 6 such that these tools can be rotated or kept within the shell.<sup>4</sup> In short, neither Applicant's cooperation nor Applicant's operation of said illuminating component by either axle 6 or knife 61 taught by Leu '775.

In view of the foregoing deficiencies, there is no anticipation under 35 U.S.C. §102(b) and this rejection must be withdrawn.

### **Claim 28**

Claim 28 is rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,727,319 to Myerchin *et al.* Foregoing amendments of claim 28 render this rejection moot. Specifically, Myerchin '319 contemplates a battery shell providing electrical power to a light emitting diode. This feature is wholly absent from amended claim 28. Consequently, there is no basis for maintaining this rejection.

As amended, claim 28 broadly defines Applicant's novel of cooperation between a mode switch and a first electric switch that advantageously endows such desirable features as the illumination provided by Myerchin '319 and Breen '986 with such beneficial features as the "flash light" provided by Lue '775. Despite the plethora of teachings in the art, only Applicant has advantageously combined these features in a simple structure that additionally provides illumination when a tool is moved into its deployed position. Consequently, claim 28 is literally allowable and patentably

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<sup>4</sup> Column 2, lines 44-50

distinguishable over the prior art.

**Claim Rejection Under 35 U.S.C. §103**

**Claims 7 through 9**

Claims 7 through 9 are rejected under 35 U.S.C. §103 as rendered obvious over a proposed combination of Leu '775 and U.S. Patent No. 5,845,986 to Breen. Applicant respectfully traverses this rejection because supplementing Leu '775 according to Breen '986 fails to remedy the deficiencies in the primary reference noted in the foregoing paragraphs. Withdrawal of this rejection is therefore required.

**Claims 10, 14 through 16 and 18**

Claims 10, 14 through 16 and 18 are rejected under 35 U.S.C. §103 as rendered obvious over a proposed combination of Leu '775 and U.S. Patent No. 6,434,829 to Chen. Applicant respectfully traverses this rejection, and notes that supplementing Leu '775 with Chen '829 fails to remedy the deficiencies in the primary reference listed in the foregoing paragraphs. Withdrawal of this rejection is therefore required.

**Claims 11 through 13, 19 and 20**

Claims 11 through 13, 19 and 20 are rejected under 35 U.S.C. §103 as rendered obvious over a proposed combination of Leu '775, Chen '829 and U.S. Patent No. 6,206,538 to Lemoine. Applicant respectfully traverses those rejection and recognition of the failure of the Examiner's proposed combination to remedy the deficiencies in the primary reference identified in the foregoing paragraphs. Withdrawal of this rejection is

therefore required.

**Claim 21**

Claim 21 is rejected under 35 U.S.C. §103 as rendered obvious over a proposed combination of Leu '775, Chen '829 and U.S. Patent No. 6,765,496 to Dayan. Applicant respectfully traverses this rejection, and observes that the Examiner's proposed combination fails to remedy the deficiencies in the primary reference that have been discussed earlier herein. Moreover, the record of this application is devoid of any evidence suggesting modification of the primary reference to incorporate either dimming, flashing, pulsing or changing color of light section 34 of Leu '775. Absence of such evidence, there is no basis for making the modification proposed and the Examiner's proposed combination fails to make *primo facie* showing of obviousness. Withdrawal of this rejection is therefore required.

**Claim 22**

Claim 22 is rejected under 35 U.S.C. §103 as rendered obvious over a proposed combination of U.S. Patent No. 5,331,741 to Taylor Jr., Leu '775 and U.S. Patent No. 5,474,452 to Campagnuolo. Applicant respectfully traverses this rejection for the following reasons.

First, the primary references devoid of either teaching, suggestion or structure supporting either a light or source of power for the light. Moreover, the primary reference expressively relies upon manual displacement of the latter in response to some pressure to enable a knife to be openable with only one hand. Incorporation of both

Applicant's toggled on switch and Applicant's mode switch into the primary reference impermissively prevents the primary reference from being operated in its intended mode. Moreover, incorporation of multiple switches into the primary reference singularly defeats the desired one hand operation of Taylor '741. There is therefore, no basis for making the combination proposed. Withdrawal of this rejection is therefore required.

**Claim 23**

Claim 23 is also rejected under 35 U.S.C. §103 as rendered obvious over a proposed combination of Taylor Jr. '741, Leu '775, and Campagnuolo '452. Applicant respectfully traverses this rejection for the following reasons. In addition to the total absence of any evidence in the record for making the modification of Taylor '741 advanced by the Examiner, the Examiner's proposed combination is devoid of any basis for enabling a one-handed operation of the Examiner's proposed combination as is required by Taylor '741. Consequently, there is no basis for making the Examiner's proposed combination except and impermissible hindsight reconstruction of the art in the light provided by Applicant alone. Withdrawal of this rejection is therefore required.

**Claim 24**

Claim 24 is rejected under 35 U.S.C. §103 as rendered obvious over a proposed combination of Taylor Jr. '741 and Leu '775. Applicant respectfully traverses this rejection for the following reasons. In addition to the reasons set forth and foregoing paragraphs of this Paper, Applicant notes that the Examiner's proposed combination is singularly devoid of Applicant's teaching of any "toggle on switch momentarily turning

on said knife light." Furthermore, the Examiner's combination lacks Applicant's "mode switch" that selects a "mode of operation of said knife light." Consequently, the Examiner has failed to make a *prima facies* showing obviousness. There is no basis for therefore, for maintaining this rejection.

#### **Claim 26**

Claim 26 is rejected under 35 U.S.C. §103 as rendered obvious over a proposed combination of Leu '775, Chen '829, Dayan '496 and Taylor Jr. '741. Applicant traverses this rejection and notes that the combination proposed by the Examiner fails to remedy the deficiencies identified in the primary reference by foregoing paragraphs. Withdrawal of this rejection is required.

#### **Claim 27**

Claim 27 is rejected under 35 U.S.C. §103 as rendered obvious over a proposed combination of Leu '775, Chen '829 and Taylor Jr. '741. Applicant respectfully traverses this rejection for the following reasons.

The Examiner asserts that Leu '775 teaches a switch 14 but fails to address the structure explicitly defined by claims 27, including Applicant's combination of "one feature wherein said illuminating means is turned on under all conditions, and one feature wherein said illuminating means is toggled on momentarily, and off feature wherein said illuminating means off under all conditions." Consequently, this rejection is incomplete and fails to make *prima facies* of obviousness. Claim 27 has been rewritten to broadly



define Applicant's combination of the "on-by-blade light illuminating of the tool when said tool is deployed from the said housing", a feature wholly absent from the Examiner's proposed combination. Consequently, claim 27 remains patentably distinguishable and allowable over the prior art.


**Claim 29**

Claim 29 is rejected under 35 U.S.C. §103 as rendered obvious over a proposed combination of Leu '775 and Chen '829. Applicant respectfully traverses this rejection, and observes that Chen '829 fails to remedy the foregoing deficiency noted in the foregoing paragraphs. Moreover, Chen '829, as is Leu ' 775, lack any type of "mode switch" and instead rely upon slide switch 14, which provides but a single operative mode. There is therefore, no prima facie showing obviousness.

A fee of \$510.00 is incurred by filing of a petition for a one month extension of time, set to expire on 25 July 2005. Applicant's check drawn to the order of Commissioner accompanies this Amendment. Should the check become lost, be deficient in payment, or should other fees be incurred, the Commissioner is authorized to charge Deposit Account No. 02-4943 of Applicant's undersigned attorney in the amount of such fees.

In view of the above, it is submitted that the claims of this application are in condition for allowance, and early issuance thereof is solicited. Should any questions remain unresolved, the Examiner is requested to telephone Applicant's attorney.

Respectfully submitted,

  
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